

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DARCY L. PFORTMILLER,

Plaintiff,

v.

UNION PACIFIC RAILROAD COMPANY

Defendant.

Case No.

8:05 CV 179

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
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OFFICE OF THE CLERK

COMPLAINT

The Plaintiff, Darcy Pfortmiller, by and through his undersigned attorneys, for his Complaint states and alleges the following:

PARTIES

1. Plaintiff, Darcy Pfortmiller, was employed by the Defendant as an electrician in the Defendant's facility in North Platte, NE. The Plaintiff resides in North Platte, NE.
2. The Defendant is a national corporation with its main headquarters located in Omaha, NE.

JURISDICTION AND VENUE

3. Plaintiff brings this action under the provisions of Title 45, Section 1-60, of the United States Code, regulations promulgated under the authority of those sections, and other federal railroad safety laws which have been incorporated by decision, of which Sections 1 through 60 are commonly known and referred to as the Federal Employers' Liability Act, and under the terms of that Act, this Court has jurisdiction.
4. At all times mentioned herein, Defendant was a corporation engaged in the business of owning, maintaining and operating a line and system of railroad which extends throughout the states of Colorado, Nebraska, Missouri and Illinois.
5. At all times mentioned herein, Defendant was an interstate carrier by rail and was engaged in interstate transportation and commerce.
6. At the time of the occurrence for which this civil action is brought, Plaintiff

was employed by Defendant as its servant and employee and part or all of the Plaintiff's duties were in the furtherance of interstate commerce or directly, closely and substantial affected interstate commerce.

7. Both Plaintiff and his employer, the Defendant, were engaged in interstate commerce within the meaning of the Federal Employer's Liability Act, and their mutual rights and liabilities were governed and controlled by that Act at the time of the occurrence for which this action is commenced.

ALLEGATIONS

8. On June 5, 2003, while in the performance of his duties as a electrician, Plaintiff was changing a vertical bus bar on a locomotive and injured his back.

9. At the time and place of the Plaintiff's injuries, Defendant, by and through its agents and employees, then and there violated one or more of the following acts of negligence in violation of the Federal Employers' Liability Act, Title 45, Section 51-60 of the United States Code Annotated:

- a. It failed to provide Plaintiff with a reasonably safe place to work;
- b. It required Plaintiff to work outside of his normally assigned work area in an area that was not familiar to him;
- c. It failed to provide assistance for Plaintiff;
- d. It failed to provide proper equipment to assist in the job;
- e. It failed to provide proper supervision;

10. That as a result, in whole or in part, of the Defendant's negligence, Plaintiff has suffered permanent injuries to his back and has underwent surgery. Plaintiff has incurred substantial medical expenses and will continue to incur substantial medical expenses in the future. Plaintiff has sustained permanent injuries and has experienced pain and suffering and will continue to experience pain and suffering in the future.

WHEREFORE, Plaintiff prays for entry of judgment in his favor, and seeks:

- a. Compensatory and consequential damages for pain and suffering, emotional pain and suffering, mental anguish, loss of enjoyment of life, lost earnings and benefits,

loss of earning capacity and all other compensatory and consequential damages.

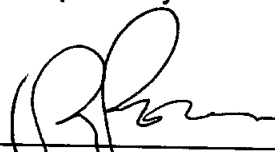
b. All costs and expert witness fees.

c. All other appropriate relief this Court deems proper and just.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

Dated this 19 day of April 2005.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rick Rosen', is written over a horizontal line.

Rick Rosen, NE Bar # 18222
Rosen Law Firm
1669 Windham Way, Suite A
O'Fallon, IL 62269

ATTORNEYS FOR PLAINTIFF